

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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CAROLYN PEARSON,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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Civil Action No. 12-4175 (SRC)

**OPINION & ORDER**

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**CHESLER**, District Judge

This matter comes before the Court on the motion for supplemental attorney's fees, pursuant to 42 U.S.C. § 406(b), by counsel to Plaintiff Carolyn Pearson. The Commissioner has not responded to the motion. For the reasons stated below, the motion will be denied.

In 2012, Plaintiff and Counsel entered into an agreement for Counsel to represent Plaintiff in the federal Social Security appeal process. The agreement provided for a contingent fee arrangement, with Plaintiff agreeing that Counsel was entitled to 25% of retroactive benefits awarded. Counsel represented Plaintiff through numerous steps and levels of the appeal process. Plaintiff ultimately prevailed, the Social Security Administration issued an Award Notice that included an award of attorney's fees, and counsel for Plaintiff applied to this Court for an award of such fees, which was granted.

Counsel for Plaintiff now applies for attorney's fees based on an award of benefits to Plaintiff's minor child. In support, Counsel submits an Award Notice that does not support the application. Although the application contends that the minor child was awarded past due benefits, the Award Notice states, to the contrary, that "there are no past due benefits available to be paid to

the representative.” (Ex. C at 2.) The Award Notice further states that the Social Security Administration (“SSA”) must approve any fee that the minor child’s representative wants to charge for helping with the claim, and instructs that the representative should send SSA any fee request. (Id.) The Award Notice thus does not support Counsel’s application for an award of 25% of past due benefits.

Counsel’s application also states that she is working on obtaining a corrected Award Notice. The motion for supplemental attorney’s fees will be denied without prejudice, and may be renewed if accompanied by an award notice which supports it.

For these reasons,

**IT IS ON THIS** 6th DAY OF January, 2020

**ORDERED** that Plaintiff’s motion for supplemental attorney’s fees (Docket Entry No. 35) is **DENIED** without prejudice.

s/ Stanley R. Chesler  
STANLEY R. CHESLER, U.S.D.J.